IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SEVENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO : 13435 of 2005

Between:

K.Narasimha Reddy, S/o K. Shiva Reddy,
R/o Dharmareddyguda, Hamlet of Maliyala Village,

Bommalaramaram Mandal, Nalgonda District.

..... PETITIONER

AND

1 The Assistant Registrar/Sub Divisional Co-Operative Officer,

Bhongir,Nalgonda District.
2 The Deputy Registrar of Co-Operative Societies, Bhongir,

Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more especially one in the nature of Mandamus declaring that the notice dated 16-6-2005 in E.P.No. 6 of 1997 on the file of 1st respondent as bad, illegal, void and without jurisdiction and consequently set aside the same.

Counsel for the Petitioner: MR.H.VENUGOPAL

Counsel for the Respondents: GP FOR COOPERATION

The Court made the following:

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Co-Operation appearing on behalf of the respondents and with their consent, the writ petition is disposed of at the stage of admission.

In this writ petition, the petitioner challenges the action of the respondents in issuing notice in E.P.No.6 of 1997 dated 16-06-2005 for attachment of immovable property, in satisfaction of the surcharge order in RC.No.2329/79-E, dated 14.08.1996. The contention of the petitioner is that this surcharge proceedings, dated 14.08.1996, is the second order, the earlier one being surcharge order dated 11.04.1986 in RC.No.2329/79-C. Reference is made to the order of the Co-Operative Tribunal in C.T.A.No.402 of 1996, dated 24.07.1999, wherein the second surcharge proceedings dated 14.08.1996 was held to be neither valid nor tenable. The appeal preferred in C.T.A.No.402 of 1996, by the petitioner herein, against the order of surcharge dated 14.08.1996, was consequently held to be invalid by the Co-Operative Tribunal. The grievance of the petitioner is that the second order of surcharge, dated 14.08.1996, having been held by the Co-Operative Tribunal to be invalid and untenable, no action could have been initiated by the respondents pursuant to the said surcharge order.

Learned Government Pleader refers to para No.6 of the order of the Co-Operative Tribunal in C.T.A.No.402 of 1996, dated 24.07.1999, wherein reference is made to the earlier surcharge order dated 11.04.1986 in RC.No.2329/79-C, against which the appeal preferred in Special appeal No.2 of 1988, was disposed of on merits on 10.09.1991, and while recovery of Rs.4,219/- covered by item Nos.4 and 5 of the surcharge order was set-aside, recovery for the remaining item Nos.1, 2, 3, 5 to 8, 10 and 11 for a sum of Rs.26,730/-, was confirmed.

The contention of the petitioner, that the second surcharge proceedings having been held by the Co-Operative Tribunal to be invalid cannot form the basis for initiating action against the petitioner or for instituting E.P.No.6 of 1997, has considerable force. Once the Co-Operative Tribunal has held the second surcharge proceedings, dated 14.08.1996, to be invalid, and the said order has attained finality, no execution proceedings could have been instituted pursuant thereto.

The order impugned in this writ petition, i.e., notice of attachment of immovable property dated 16.06.2005, in satisfaction of the second surcharge order in RC.No.2329/79-E dated 14.08.1996 converted into E.P.No.6 of 1997, is set-aside.

Needless to state that since the earlier order of surcharge in RC.No.2329/79-C dated 11.04.1986 has attained finality in respect of item Nos.1, 2, 3, 5 to 8, 10 and 11, for a sum of Rs.26,730/-, it is open to the respondent authorities, to take such steps, as are available to them in law, in satisfaction of the surcharge order dated 11.04.1986.

With the above observations, the writ petition is disposed of. No order as to costs.

RAMESH RANGANATHAN, J

27.06.2005

DR

To

1 The Assistant Registrar/Sub Divisional Co-Operative Officer,

Bhongir,Nalgonda District.

2 The Deputy Registrar of Co-Operative Societies, Bhongir,

Nalgonda District.

3 2 CCs to Government Pleader for Co-Operation,

High Court Buildings, Hyderabad. (OUT)

4 2 CD copies